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OFFICE OF PETITIONS

In re Application of	:	
Cassagnes	:	
Application No. 10/039,233	:	DECISION ON PETITION
Filed: December 31, 2001	:	
Attorney Docket No. 01RO11554371	:	

This is a decision on the petition under 37 CFR 1.181, filed September 8, 2006, to withdraw the holding of abandonment.

On May 3, 2005, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period to respond. In the apparent absence of a timely filed response, the application became abandoned on August 4, 2005. A Notice of Abandonment was mailed on September 5, 2006.

In the present petition, petitioner's practitioner asserted that he filed a timely response to the nonfinal Office action in the form of an amendment via facsimile transmission on August 3, 2005. In support of his assertion, the practitioner submitted a copy of the response, containing a certificate of facsimile transmission dated August 3, 2005. Additionally, the practitioner provided the Office with a copy of the sending unit's report confirming transmission of the amendment by fax on August 3, 2005.

Pursuant to 37 CFR 1.8:

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and,

(3) Includes a statement, which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

(c) The Office may require additional evidence to determine if the correspondence was timely filed.

After reviewing the record and the papers submitted on petition, the response is considered timely filed on August 3, 2005. Accordingly, the petition is **granted**. The holding of abandonment is hereby withdrawn. The application will be restored to pending status in view of the fact that a response was timely submitted on August 3, 2005.

This matter is being referred to Technology Center Art Unit 2611 for a review of the amendment filed on August 3, 2005.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.



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